BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

THOMAS G. HUMLICEK APPELLANT, V. LANCASTER COUNTY BOARD OF EQUALIZATION, APPELLEE.	CASE NO: 23R 0920 DECISION AND ORDER AFFIRMING THE DECISION OF THE LANCASTER COUNTY BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Lancaster County, parcel number 17-15-212-005-000.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at $319,100 for tax year 2023.
3. Thomas G. Humlicek (the Taxpayer) protested this value to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was $319,100 for tax year 2023.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on June 3, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Thomas G. Humlicek was present at the hearing for the Taxpayer.
8. Tim Johns (the Appraiser) was present for the County Board.

II. APPLICABLE LAW

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.[1]
10. The Commission's review of a determination of the County Board of Equalization is de novo.[2]
11. When considering an appeal, a presumption exists that the "board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action."[3] That presumption "remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board."[4]
12. The order, decision, determination, or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.[5]
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.[6]

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[1] Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).
[2] See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). "When an appeal is conducted as a 'trial de novo,' as opposed to a 'trial de novo on the record,' it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal." *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).
[3] *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).
[4] *Id*. at 283-84.
[5] Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).
[6] *Omaha Country Club v. Douglas Cty. Bd. of Equal.,* 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.[7]
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.[8]

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Taxpayer stated recent sales are selling for less than assessed value. The Taxpayer provided a spreadsheet showing recent sales and making market adjustments to arrive at a price per square foot that would calculate to an assessment of $271,542. The Taxpayer purposed a new assessment of $295,000.
17. The Taxpayer stated the referee for the county recommended lowering the value to $306,000 however the coordinator reversed the referee's recommendation and stayed with the assessors value.
18. The Appraiser provided a packet that included comparable sales that show the current assessment is correct. The appraiser stated three of the Taxpayers sales are new sales and not part of the sales roster used for the 2023 valuations.
19. The Taxpayer did not provide any Property Record Files (PRF) for any of the comparable properties. Without any PRF for the Commission to analyze the comparability to the Subject Property the Commission is unable to see if they are truly comparable to the Subject Property.
20. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.

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[7] *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.,* 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).
[8] Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

21. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be affirmed.

IV. ORDER

IT IS ORDERED THAT:

1. The decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2023 is affirmed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	$ 60,000
Improvements	$ 259,100
Total	$ 319,100

3. This Decision and Order, if no further action is taken, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax year 2023.
7. This Decision and Order is effective on December 17, 2024.

Signed and Sealed: December 17, 2024

James D. Kuhn, Commissioner